

2017 Texas Higher Education Leadership Conference

Effective Trusteeship, Ethics (including
Ethical Issues in Financial Management),
and the Avoidance of Conflicts of Interest

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Texas Ethics Commission -The “Should Nots”

State officer or employee should not:

- Accept gift, favor or service that might tend to influence in the discharge of official duties;
- Accept other employment or business opportunity that could require disclosure of confidential information;
- Accept other employment or compensation that can impair independence of judgment;
- Make personal investments that could create a conflict with public obligations; or
- Intentionally or knowingly accept or solicit a benefit for having exercised official duties.

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Contracting with State Universities (SB 20)

Regents/Board members must disclose to the University any potential conflict of interest specified by state law or University policy of any known financial interests regarding contracts or bids. See Tex. Govt. Code § 2261.252(a).

The University cannot contract with a vendor of goods or services if any of the following people have a financial interest in the vendor:

- Members of the University's governing body.
- Governing officials, executive director, general counsel, chief procurement officer, or procurement director of the university
- Family members related to an employee or official described above within the second degree by affinity or consanguinity. See Tex. Govt. Code §2261.252(b).

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Definition of a “Financial Interest” for Contracting and Procurement:

Regent, employee, or their family owns or controls, directly or indirectly, **at least one percent** in the vendor, including the right to share in profits, proceeds, or capital gains; or

Regent, employee, or their family could reasonably foresee that a contract with the vendor could result in financial benefit to the employee or official. See Tex. Govt. Code § 2261.252 (c).

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Definition of “Family members” for contracting and procurement:

Employee or Regent/Board Member	And the following relatives of the employee/regent:	
	Child Parent Spouse Mother-in-law Father-in-law Son-in-law Daughter-in-law Stepson Stepdaughter Stepmother Stepfather	Sister Brother Grandchild Grandparent Brother-in-law Sister-in-law Spouse’s grandparent Spouse’s grandchild Grandchild’s spouse Grandparent’s spouse

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A former state officer or employee of the University who during the course of employment participated on behalf of the University in either contract negotiation or procurement involving a person may not accept employment from that person before the 2nd anniversary of the date the employee's service/employment with the University ceased. See Tx. Govt. Code § 572.069.

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HB 23 - Relating to Contracts with Community Colleges (local govt.)

- HB 23 revised the statutes relating to the reporting of conflicts of interest between vendors and local government officials, including board members of community colleges and others with discretion in the planning, recommending, selecting, or contracting of a vendor.
- HB 23 is similar to SB 20, but is not a duplicate of SB20. For some time, Texas law has required the disclosure of gifts and business relationships between vendors and officials. HB 23 expanded this transparency and expanded the universe of those required to report a potential conflict.

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- HB 23 - Relating to Contracts with Community Colleges (local govt.)

Requirement: When a community college is entering into a contract (or even considering it), the vendor (and the board member or officer) must file a conflict of interest questionnaire if the vendor has a “business relationship” with a local government entity AND at least one of the following:

- An employment or other business relationship with a board member, officer, or one of their family members, of the entity, where the board member/officer/family member received taxable income exceeding \$2,500 in the previous 12 months (except for investment income);
- Has given the officer or their family member one or more gifts totaling \$100 with the previous calendar year (this includes lodging, transportation or entertainment but excludes food); or
- Has a family relationship with a board member or officer.

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HB 23 - Relating to Contracts with Community Colleges (local govt.)

- The required forms are on the website of the Texas Ethics Commission. Disclosure must also include each business relationship where the board member/officer serves as an officer of the entity or owns at least 1%.

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HB 23 - Relating to Contracts with Community Colleges (local govt.)

- Definition of “Family members” for gift purposes:

Employee or Regent/Board Member	And the following relatives of the employee/regent:
	Child Parent Spouse Mother-in-law Father-in-law Son-in-law Daughter-in-law Stepson Stepdaughter Stepmother Stepfather

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HB 23 - Relating to Contracts with Community Colleges (local govt.)

Definition of “Family relationship” for contracting and procurement:

Employee or Regent/Board member	And the following relatives of the employee/regent:		
	child parent spouse mother-in-law father-in-law son-in-law daughter-in-law stepson stepdaughter stepmother stepfather	sister brother grandchild grandparent brother-in-law sister-in-law spouse's grandparent spouse's grandchild grandchild's spouse grandparent's spouse	aunt uncle niece nephew great-grandchild great-grandparent

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Hypotheticals

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Regent owns 1% in stock of a national office supply company which regularly supplies to the University/College.

Does it matter if the company historically sold to the University/College on a regular basis for years before the Regent was appointed?

Does it matter if the Regent buys more than 1% of stock after the purchasing contract is signed with the University/College?

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You are approached by an alum who is also an architect; he wants you to help him in his bid to land a major University project.

What do you do?

What if a local service vendor wants you to provide an introduction so they can pitch a sole source contract or get a preference on a project that is being competitively bid?

What is the best response?

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Regent recommends her best friend, an architect, for the construction of a new dorm that is planned on campus.

Regent recommends her granddaughter's husband, whom she does not like, as the architect.

What should your role be on voting on the project?

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You have received a call from an unhappy vendor whose company missed the bidding deadline by 15 minutes. You have reason to believe this vendor is the most qualified and could create significant savings for your institution.

What do you do?

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You are invited by the President of one of the campuses to visit the campus and meet with officials interested in donating land for the campus.

What is your proper role?

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You get a call from a friend asking you to intervene on behalf of his daughter who is seeking admission to the University as an undergraduate but may not have the qualifications to get admitted.

How do you respond?

How about the same scenario with the call coming from a legislator on behalf of his daughter?

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You get a call from the Governor's office insisting that you vote against any tuition increase because the Governor is concerned that it will hurt his re-election bid.

What is the proper way to handle?

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You have an idea for a new academic program. You approach the relevant Dean. He would like you to help promote it to the Provost, to help secure some gifts for the program, and to advocate for new faculty lines and start-up packages. You have ideas about the curriculum and some guest faculty from the community that you want him to include in the proposal.

What potential problems are caused by this scenario?

What would have been a better approach?

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How would you handle this situation?

You are approached by your neighbor, a Texas Supreme Court Justice, asking you to have a lunch meeting with members of the Supreme Court and you are a lawyer.

It is suggested that the purpose of the meeting is to discuss replacing the Law School Dean because of complaints from alumni about his arrogance.

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You are asked to assist in getting tickets to an athletic event on campus, is it better to provide the tickets or assist in getting access to the tickets?

What about if you are asked to get tickets for the Final Four, is it any different?

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You are informed in executive session that your president/chancellor has approved multiple “emergency leaves” for up to four months for several departing employees. You are told this is appropriate but you are also aware that there are multiple media reports questioning the legality of this approach.

What do you do?

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A faculty member approaches you to discuss concerns she has with a dean and his handling of a tenure matter.

How should you respond?

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Thank you